

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMBAC ASSURANCE CORPORATION and
THE SEGREGATED ACCOUNT OF AMBAC
ASSURANCE CORPORATION,

Plaintiffs,

-against-

CAPITAL ONE, N.A., as successor by merger
to CHEVY CHASE, F.S.B.,

Defendant.

No. 12-cv-7937

**NOTICE OF DEFENDANT'S MOTION
TO DISMISS THE COMPLAINT
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 12(b)(6)**

PLEASE TAKE NOTICE that upon the accompanying memorandum of law, and the supporting Declaration of Cameron S. Matheson, with exhibits, and all proceedings had herein, the defendant Capital One, N.A., will move this Court, before the Honorable Miriam Goldman Cedarbaum, United States District Judge, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 14A, New York, New York 10007, for an Order dismissing the Complaint filed in this matter pursuant to Federal Rule of Civil Procedure 12(b)(6).

Pursuant to Rule 3.C of this Court's Individual Practices, Defendant Capital One respectfully requests that the return date of this motion be set for Thursday, March 7, 2013, at 10:00 a.m.

Dated: February 6, 2013
Glen Allen, Virginia

Respectfully submitted,

/s/ Cameron S. Matheson
Cameron S. Matheson

James A. Murphy
Murphy & McGonigle, PC
4870 Sadler Road, Suite 301
Glen Allen, Virginia 23060
(804) 762-5320

James K. Goldfarb
Soren E. Packer
Murphy & McGonigle, PC
60 East 42nd Street, Suite 5230
New York, New York 10165
(212) 880-3961

Attorneys for Defendant Capital One, N.A.